

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL and ALECIA FLOOD,  
individually and as Parents and Natural  
Guardians of TYLER FLOOD, a minor,

Plaintiffs,

vs.

GEORGE VILLEGAS, JR. and PAM  
VILLEGAS, individually and as Parents  
and Natural Guardians of MEGAN  
VILLEGAS; DAVID and CHRISTY  
SHERK, individually and as Parents and  
Natural Guardians of K.S., a minor; DAVID  
and CHRISTINE SEAMAN, individually  
and as Parents and Natural Guardians of  
C.S., a minor; CRIS and KIMBERLY  
SALANCY, individually and as Parents  
and Natural Guardians of E.S., a minor;  
DAVID and LYNN REINA, individually and  
as Parents and Natural Guardians of H.R.,  
a minor; SENECA VALLEY SCHOOL  
DISTRICT; BUTLER COUNTY DISTRICT  
ATTORNEY'S OFFICE; and BUTLER  
COUNTY, PENNSYLVANIA,

Defendants.

Civil Action No.: 2:18-cv-01310-MRH

HONORABLE MARK R. HORNAK

**PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT PURSUANT TO RULE 55(b)(2)**

AND NOW, come the Plaintiffs, Michael and Alecia Flood, individually and as Parents and Natural Guardians of Tyler Flood, a minor, by and through their attorneys, Craig L. Fishman, Esquire and Shenderovich, Shenderovich & Fishman, P.C. and file the following Motion for Default Judgment Pursuant to Rule 55(b)(2):

1. Defendants, David Reina and Lynn Reina, individually and as Parents and Natural Guardians of H.R., a minor, served Waivers of Service of Summons, which have been filed with the Court as Document Nos. 22, 23 and 24, acknowledging that they were required to file and serve an Answer to the Complaint or a Rule 12 Motion within 60 days from October 5, 2018. Accordingly, Defendants were required to serve their Answer or Rule 12 Motion by December 4, 2018. The Waiver of the Service of Summons form states: "If I fail to do so [Answer a Complaint or file a Rule 12 Motion], a default judgment will be entered against me or the entity I represent."

2. Defendants David Reina and Lynn Reina, individually and as Parents and Natural Guardians of H.R., a minor, failed to file and serve an Answer to the Complaint or a Rule 12 Motion by December 4, 2018. David Reina and Lynn Reina, individually and as Parents and Natural Guardians of H.R., a minor, have not entered an appearance in this matter, and no counsel has entered an appearance on their behalf.

3. While a default judgment as to liability may be entered without a hearing of any kind, Defendants are entitled under Rule 55(b)(2) to litigate the issue of unliquidated damages. **In re The Home Restaurants, Inc.**, 285 F.3d 111, 114-115 (1<sup>st</sup> Cir. 2002); **SEC v. Smyth**, 420 F.3d 1225, 1231-1233 (11<sup>th</sup> Cir. 2005).

4. When an action is initiated against multiple defendants and one of those defendants fails to plead or otherwise defend, the vindication of an answering defendant is not inconsistent with a default judgment against another defendant in cases such as this one, where the alleged liability of the defendants (under Plaintiffs' state law claims) is joint and several. **Shanghai Automation Instrument Co. v. Kuei**, 194 F.Supp. 2d 995, 1005-1010 (N.D. Cal. 2001).

5. As pleaded in the Complaint, H.R., a minor, attends school in Butler County, Pennsylvania; Lynn Reina resides in Butler County, Pennsylvania; and David Reina resides in Allegheny County, Pennsylvania. Accordingly, the Court has personal jurisdiction over the Defendants in default.

WHEREFORE, the Plaintiffs, Michael Flood and Alecia Flood, individually and as Parents and Natural Guardians of T.F., a minor, respectfully request this Court enter a default judgment as to liability against Defendants Lynn Reina and David Reina, individually and as Parents and Natural Guardians of H.R., a minor.

Respectfully submitted,

Shenderovich, Shenderovich & Fishman, P.C.

By: /s/ Craig L. Fishman

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Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

All parties represented by counsel have been served by the Court's CM/ECF system. David Reina and Lynn Reina are unrepresented, and have been served with this document via email at the email addresses listed on their Waiver of the Service of Summons forms as follows:

Lynn Reina ([shields148@hotmail.com](mailto:shields148@hotmail.com))

David Reina ([pghsteelers74@hotmail.com](mailto:pghsteelers74@hotmail.com))

The unrepresented Defendants were also served via First Class United States Mail, postage prepaid, as follows:

Mr. David Reina  
5A River Road  
Pittsburgh, PA 15238

Ms. Lynn Reina  
103 Green Gables Manor  
Zelienople, PA 16063

/s/ Craig L. Fishman  
Craig L. Fishman, Esquire  
Attorney for Plaintiffs